

Internal Revenue Service
District Director

Department of the Treasury
P.O. Box 2508
Cincinnati, OH 45201

Person to Contact:

Telephone Number

Refer Reply to:

Date: JUL 22 1996

Dear Sir or Madam:

We have considered your application for recognition of exemption from Federal income tax under the provisions of section 501(c)(7) of the Internal Revenue Code of 1986 and its applicable Income Tax Regulations.

Consideration was given to whether you qualify for exemption under other subsections of section 501(c) of the Code and we have concluded that you do not.

As your organization has not established exemption from Federal income tax, it will be necessary for you to file an annual income tax return on Form 1041 if you are a trust or Form 1120 if you are a corporation or an unincorporated association.

If you are in agreement with our proposed denial, please sign and return one copy of the enclosed Form 6018, Consent to Proposed Adverse Action.

You have the right to protest this proposed determination if you believe that it is incorrect. To protest, you should submit a written appeal giving the facts, law and other information to support your position as explained in the enclosed Publication 892, "Exempt Organizations Appeal Procedures for Unagreed Issues". The appeal must be submitted within 30 days from the date of this letter and must be signed by one of your principal officers. You may request a hearing with a member of the office of the Regional Director of Appeals when you file your appeal. If a hearing is requested, you will be contacted to arrange a date for it. The hearing may be held at the Regional Office, or, if you request, at any mutually convenient District Office. If you are to be represented by someone who is not one of your principal officers, he or she must file a proper power of attorney and otherwise qualify under our Conference and Practice Requirements as set forth in Section 601.502 of the Statement of Procedural Rules. See Treasury Department Circular No. 230.

If we do not hear from you within the time specified, this will become our final determination.

Sincerely yours,

C. Ashley Bullard
District Director

Enclosures: 3

Enclosure I

[REDACTED]
[REDACTED]
[REDACTED] was incorporated in [REDACTED] as a non-profit organization on [REDACTED]. The purpose of the organization is to provide reduced airfares, hotel and car accommodations for the members of the organization. Monthly meetings will be held for the purpose of determining future destinations. Currently, there are no members of the organization.

Membership fees are \$ [REDACTED] initiation plus \$ [REDACTED] annual dues for individuals; \$ [REDACTED] initiation plus \$ [REDACTED] annual dues for a family; \$ [REDACTED] for [REDACTED] child or \$ [REDACTED] for [REDACTED]. The membership entitles each individual or family to one voting right. The annual membership fees are used to defray administrative and fixed club expenses. The actual operating cost of each trip is borne by the passengers on that trip. Only members are permitted to take trips and memberships are nontransferable. The purpose is to unite persons having a desire to "travel at modest cost, seek adventure in new geographical locale, and pioneer in a cooperative venture." While members travel together, there are no activities to demonstrate that there is a commingling of members in any social activities, personal contact or fellowship. The organization was asked to demonstrate commingling of members, but no additional information was provided.

The organization provides no indication that the travel tours it will undertake are charitable, educational, religious or scientific within the meaning of 501(c)(3).

Section 501(c)(3) of the Code provides, in part, for the exemption from Federal income tax:

Organizations organized and operated exclusively for charitable, religious or educational purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

Section 1.501(c)(3)-1(a)(1) of the Regulations states:

In order to qualify under section 501(c)(3) of the Code, an organization must be both organized and operated exclusively for one or more exempt purposes. If an organization fails to meet either the organizational or operational test, it is not exempt.

Enclosure I continued

EIN: [REDACTED]

Section 1.501(c)(3)-1(a)(2) of the Regulations states:

The term "exempt purpose or purposes", means any purpose or purposes specified in section 501(c)(3) of the Code.

Section 1.501(c)(3)-1(b)(1)(i) of the Regulations states:

An organization is organized exclusively for one or more exempt purposes only if its articles of organization:

- (a) Limit the purposes of such organization to one or more exempt purposes; and
- (b) Do not expressly empower the organization to engage, otherwise than as an insubstantial part of its activities, in activities which in themselves are not in furtherance of one or more exempt purposes.

Section 1.501(c)(3)-1(b)(1)(ii) of the Regulations states:

In meeting the organizational test, the organization's purposes, as stated in its articles, may be as broad as, or more specific than, the purposes stated in section 501(c)(3).

Section 1.501(c)(3)-1(b)(1)(iii) of the Regulations states:

An organization is not organized exclusively for one or more exempt purposes if its articles expressly empower it to carry on, otherwise than as an insubstantial part of its activities, activities which are not in furtherance of one or more exempt purposes, even though such organization is, by the terms of such articles, created for a purpose that is no broader than the purposes specified in section 501(c)(3).

Section 1.501(c)(3)-1(b)(1)(iv) of the Regulations states:

In no case shall an organization be considered to be organized exclusively for one or more exempt purposes, if, by the terms of its articles, the purposes for which such organization is created are broader than the purposes specified in section 501(c)(3).

Enclosure I continued

EIN: [REDACTED]

Section 1.501(c)(3)-1(b)(4) of the Regulations states:

An organization is not organized exclusively for one or more exempt purposes unless its assets are dedicated to an exempt purpose. An organization's assets will be considered dedicated to an exempt purpose, for example, if, upon dissolution, such assets would, by reason of a provision in the organization's articles or by operation of law, be distributed for one or more exempt purposes, or to a State or local government, for a public purpose, or to the Federal government, or to a State or local government, for a public purpose, or would be distributed by a court to another organization to be used in such manner as in the judgement of the court will best accomplish the general purposes for which the dissolved organization was organized.

Section 1.501(c)(3)-1(c)(1) of the Regulations states that an organization will be regarded as "operated exclusively" for one or more exempt purposes only if it engages primarily in activities which accomplish one or more of such exempt purposes specified in section 501(c)(3) of the Code. An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose.

Section 1.501(c)(3)-1(d)(1)(ii) of the Regulations states that an organization is not operated exclusively for one or more exempt purposes unless it serves a public rather than a private interest. It must not be operated for the benefit of designated individuals or the persons who created it.

In order for an organization to conduct "travel tours" as a primary purpose and activity and be exempt, the tours must further the exempt purposes delineated.

In Revenue Ruling 77-366, 1977-2 C.B. 192, the service denied exemption to a travel organization that arranged and conducted winter-time ocean cruises which had 4 hours on each of nine days spent in lecture periods, discussions and workshops lead by theologians and religiously-oriented psychologists.

Revenue Ruling 77-430, 1977-2 C.B. 194 held that an organization which operated a religious retreat where recreational facilities were available was recognized as exempt because activities of a religious nature were held on an hourly basis throughout the day with limited free time available for recreational activities.

Enclosure I continued

EIN: [REDACTED]

Section 501(c)(7) of the Code provides for the exemption from Federal income tax of clubs organized for pleasure, recreation, and other nonprofitable purposes, substantially all of the activities of which are for such purposes and no part of the net earnings of which inures to the benefit of any private shareholder.

Section 1.501(c)(7)-1(a) of the Regulations states that the exemption provided by section 501(a) of the Code for an organization described in section 501(c)(7) of the Code applies only to clubs which are organized and operated exclusively for pleasure, recreation, and other nonprofitable purposes, but does not apply to any club if any part of its net earnings inure to the benefit of any private shareholder. In general, this exemption extends to social and recreation clubs which are supported solely by membership fees, dues and assessments. However, a club otherwise entitled to exemption will not be disqualified because it raises revenue from members through the use of club facilities or in connection with club activities.

Section 1.501(c)(7)-1(b) of the Regulations states that a club which engages in business, such as making its social and recreational facilities available to the general public or by selling real estate, timber, or other products, is not organized and operated exclusively for pleasure, recreation and other nonprofitable purposes, and is not exempt under section 501(a) of the Code. Solicitation by advertisement or otherwise for public patronage of its facilities is prima facie evidence that the club is engaging in business and is not being operated exclusively for pleasure, recreation, or social purposes. However, an incidental sale of property will not deprive a club of its exemption. As previously noted, section 501(c)(7) of the Code requires that substantially all of a social club's activities be social or recreational activities for members. However, Public Law 94-568, 1976-2 C.B. 596, provides that a social club may receive up to 35 percent of its gross receipts, including investment income from sources outside its membership without losing exemption. Within this 35 percent amount, not more than 15 percent of the gross receipts should be derived from the use of a social club's facilities or services by the general public. This means that an exempt social club may receive up to 35 percent of its gross receipts from a combination of investment income and receipts from nonmembers so long as the latter do not represent more than 15 percent of the total receipts.

Section 501(j) of the Code prohibits exemption under section 501(c)(7) for any club for any taxable year if "...at any time during such taxable year, the charter, bylaws, or other governing instrument of such organization or any written policy statement of such organization contains a provision which provides for discrimination against any person on the basis of race, color, or religion."

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Enclosure I continued.

[REDACTED]
EIN: [REDACTED]

Revenue Ruling 70-32, 1970-1C.B. 132 holds that a flying club providing economical flying facilities for its members but having no organized social and recreational program did not qualify for exemption because the sole activity of the club was rendering services to its individual members and there was no significant commingling of its members.

Based on the above facts and applicable law and precedent, [REDACTED] fails to qualify for exemption under section 501(c)(3) because its activities are not religious, charitable, education or scientific. It also fails to qualify for exemption under section 501(c)(7) because it does not manifest any commingling of members but provides a service to members.

Form 6018
(Rev. August 1983)

Department of the Treasury-Internal Revenue Service
Consent to Proposed Adverse Action
(All references are to the Internal Revenue Code)

Prepare in
Duplicate

Case Number

Date of Latest Determination Letter

Employer Identification Number

Date of Proposed Adverse Action Letter

Name and Address of Organization

JUL 22 1996

I consent to the proposed adverse action relative to the above organization as shown by the box(es) checked below. I understand that if Section 7428, Declaratory Judgments Relating to Status and Classification of Organizations under Section 501(c)(3), etc. applies, I have the right to protest the proposed adverse action.

NATURE OF ADVERSE ACTION

- ☒ Denial of exemption
- ☐ Revocation of exemption, effective
- ☐ Modification of exempt status from section 501(c)() to 501(c)(), effective
- ☐ Classification as a private foundation (section 509(a)), effective
- ☐ Classification as a non-operating foundation (section 4942(j)(3)), effective
- ☐ Classification as an organization described in section 509(a)(), effective
- ☐ Classification as an organization described in section 170(b)(1)(A)(), effective

If you agree to the adverse action shown above, please sign and return this consent. You should keep a copy for your records.

If you sign this consent before you have exhausted your administrative appeal rights, you may lose your rights to a declaratory judgment under section 7428.

(Signature instructions are on the back of this form.)

Name of Organization

Signature and Title

Date

Signature and Title

Date

Cat. No. 430000

Form 6018 (Rev. 8-83)